APPENDIX

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

Civil No. CIV 78-915-B

JOSEPH ESPINOSA, et al., *Plaintiffs*,

vs.

DAVID RUSK, et al., *Defendants*.

Stipulation of Facts

1. The individual Plaintiffs are Joseph Espinosa, Charles Shobe, Morton L. Dunkin, and the General Conference Corporation of Seventh-day Adventists. The individual Plaintiffs named are members of the Seventh-day Adventist Church and citizens of the United States. Joseph Espinosa is the Community Services Director of the Texico Conference of Seventh-day Adventists and as such is the person assigned by the Seventh-day Adventist Church to supervise the 33 Seventh-day Adventist churches in New Mexico and their 2,109 members. Charles Shobe is pastor of a Seventh-day Adventist church in Albuquerque, which is a part of the Texico Conference of Seventh-day Adventists, and he will personally participate in the campaign of literature distribution and the collection of funds. He will supervise other workers including local members of the Church in Albuquerque. Finally, Morton L. Dunkin is a member of the Albuquerque, New Mexico, Seventh-day Adventist Church. He is a lay person who has assumed the responsibility for directing the Ingathering program of his church as well as participating directly in the solicitation and collection of funds incident to this program.

2. The Defendants, Mayor and Members of the City Council of the City of Albuquerque, are the duly elected officials of a municipal corporation organized and existing

under the laws of the state of New Mexico. Defendant David Rusk is the duly elected Mayor of the City of Albuquerque. Defendants Patrick Baca, Joe R. Abeyta, Mel Aragon, Thomas W. Hoover, Sandra L. West, Alan B. Reed, Jo McAleese, Jim Delleney, and Marion M. Cottrell are duly elected Council members of the City of Albuquerque. Defendant, Bob V. Stover is the Chief of Police for the City of Albuquerque and as such is charged with the responsibility for the enforcement of the City's ordinances, including the specific Ordinance at issue in this case.

3. The City of Albuquerque, New Mexico, enacted Ordinance 72-1975 to regulate charitable solicitations in the City limits.

4. The Seventh-day Adventist Church is a "charitable organization" within the meaning of Albuquerque Ordinance No. 72-1975 since it purports to have a charitable nature and solicits and collects contributions for charitable purposes within the City of Albuquerque, New Mexico, as a part of the Ingathering Program.

5. The City of Albuquerque believes that the Ordinance, in light of its definition of "secular," applies to the Seventh-day Adventist Church in its Ingathering program and that the Church must obtain a permit to solicit contributions in connection with said program.

6. The Seventh-day Adventist Church conducts an annual Ingathering program in most countries. The philosophy, objectives, and methods of the Church's Ingathering program were stated as follows by the 1971 Autumn Council of the General Conference of Seventh-day Adventists:

> Seventh-day Adventists have conducted their Annual Ingathering Appeal for more than 60 years. Each year since 1908, they have attempted to reach every home in the nation with their spiritual message. They believe that Christ is the only hope for a world plagued with runaway crime, devastating wars, polluted environ-

ment and exploding population. Their aim "to teach all nations the everlasting gospel of our Lord . . . and the commandments of God" sums up their reason for a steady, consistent witness to the world about them.

Behind their mission to humanity is the Adventist concept of man. To them, man represents a physical, mental and spiritual entity. To meet his needs, these Christian people feel they must minister not just to one, but to all aspects of his being. Thus the humanitarian work fostered by the Adventists includes more than the preaching of the Word. It also comprehends a healing ministry for the sick, the feeding of the hungry, the clothing of the naked, the education of children and youth. In their work, the Adventists endeavor to serve all aspects of man's being—physical, mental, and spiritual. They work for the wholeness of life and for the wholeness of man. This, in substance, is their reason for existence.

The Annual Ingathering Appeal is part of a many-sided evangelistic program fostered by Adventists to reach their neighbors. Its spiritual ministry is intended for every home. Its Bible course enrollments are offered to all people interested in knowing more about God and his revelation to man. A brochure is customarily presented explaining the work of the church and giving the public an opportunity to contribute to its worldwide program. Those who present these booklets contribute their time as well as their monetary gifts to bring to the world the biblical message of an unfailing hope in God. They invite others to join hands with them in this humanitarian and spiritual undertaking.

7. "These Times: Ingathering Appeal" is a sample of the kinds of brochures distributed to the public by Seventh-day Adventist participants in the Ingathering campaign and

which were in fact used in the City of Albuquerque. This pamphlet explains the mission of the Seventh-day Adventist Church and some of the purposes for which the Ingathering funds are spent.

8. "These Times" specifies that money solicited during the Ingathering Appeal is spent for medical, community services, educational and evangelical purposes. In particular, the Church uses funds solicited to provide food, clothing, shelter and money for the needy; summer camps for disadvantaged youth; counseling; health services, such as testing for diabetes, blood pressure, pulmonary function, and glaucoma, and providing health and nutritional courses; and education, through 532 high schools and colleges worldwide. These latter would all come within the meaning of "secular" as this term is defined in the Ordinance and interpreted by the City. The City has advised the Plaintiffs of this interpretation and expressed its intent to enforce the Ordinance with respect to Plaintiffs' Ingathering Appeal.

9. The Seventh-day Adventist Church publishes a pamphlet entitled, "A Quick Look at Seventh-day Adventists-1979" which enumerates many facts about the size of the Church and the breadth of its activities.

10. The Adventist Church funds its Ingathering Appeal from revenues other than those derived from the Appeal itself. Thus, 100% of the funds solicited are used for the worldwide outreach of the Church as set forth in the pamphlet "These Times." Furthermore, for purposes of Ordinance No. 72-1975, the Adventists' costs are zero.

11. The amount of the funds solicited through the Ingathering Appeal has exceeded in the past and is expected to exceed in the future, one thousand dollars.

12. The Seventh-day Adventist Church, and the Plaintiffs herein, believe that welfare programs that serve the physical needs of humanity are mandated by the Holy Bible.

13. The Seventh-day Adventist Church and the individual Plaintiffs believe the door-to-door contacts with the citizens of Albuquerque during the Church's Annual Ingathering program are an important aspect of the free exercise of their religious beliefs as guaranteed by the First and Fourteenth Amendments of the Constitution of the United States.

14. The Seventh-day Adventist Churches in the Albuquerque area and their respective memberships are as follows:

1) Central Church—229 members
2) Heights Church—295 members
3) Albuquerque Spanish Church—290 members
4) Albuquerque Southwest Spanish Church—25 members
5) Academy (Corrales)—129 members
6) Conference Isolated Church—21 members

15. It is conceded that the protection of the public from fraud is a legitimate interest of the City of Albuquerque.

/s/ JOHN WILLIAMS
Attorney for Plaintiffs

/s/ SUSAN GREEN
Attorney for Defendants

I certify that a copy of the foregoing Stipulation of Facts was mailed to all Counsel of record this 23rd day of January, 1979.

/s/ SUSAN GREEN